S.B. CIVIL WRIT PETITION NO. 6839/2006.
(STATE & ANR. VS. AMBA LAL & ORS.)

DATE OF ORDER : 01.12.2006.

HON'BLE MR. GOVIND MATHUR, J.

Mr. Shyam Ladrecha, AGA, for the petitioner.

By this petition for writ, a challenge is given to the award dated 15.10.2005 passed by the Labour Court, Bhilwara in labour case No.20/04 titled as Ambalal vs. Principal, Government Politechnic College, Chittorgarh.

The appropriate government under its notification dated 31.01.2004 referred an industrial dispute for its adjudication to the Labour Court, Bhilwara in terms that as to whether the termination of workman Shri Amba Lal w.e.f. 23.07.2002 was proper and valid, if not, then for what relief the workmen is entitled.

The Labour Court after considering the entire evidence available on record gave a specific finding that the workman was in continuous service of the employer for a period of more than one and half year and he was retrenched from service without adhering mandatory condition precedent for valid retrenchment as prescribed under Section 25-F of the Industrial

Disputes Act, 1947. While declaring the retrenchment of the petitioner illegal, the Labour Court directed the employer to reinstate the workman in service with 50% of total back wages.

While giving challenge to the award aforesaid, it is contended by counsel for the petitioner that the appointment of the petitioner was on contractual basis, therefore, he cannot be termed and defined as workman under Section 2(s) of the Industrial Disputes Act, 1947. It is further contended by counsel for the petitioner that the nature of the job of the workman is of intermittent nature as he was working on part time bases, therefore, the Act of 1947 is having no application qua the petitioner.

Heard counsel for the petitioner.

The petitioner was though employed by the respondents by designating him as a contract workman, but on basis of the evidence available on record, the Labour Court has given a specific finding that the workman was working for a period of more than two and half hours everyday with Polytechnic College and he was scawanging and cleaning the College. A finding of fact is given that the workman was not employed on contract basis.

I also do not find any force in the contention that the work of the respondent is of intermittent nature. The work of scawanging and cleaning is not of intermittent nature and is of a permanent nature, therefore, it is required to be treated as a regular work. Beside that the petitioner is required to satisfy the Court that by discharging intermittent duties, a person could not be termed as a workman. The counsel for the petitioner failed to do so. The Labour Court on basis of the evidence available has given findings of fact and those are not perverse.

In view of it, I do not find any error in the award impugned that may warrant interference by this Court under Article 226 and 227 of the Constitution of India.

The petition for writ is accordingly dismissed.

(GOVIND MATHUR)J.

Anil/